

RULEMAKING at the IURC

The Indiana Voluntary
Clean Energy Portfolio Standards Program
IURC RM #11-05

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Indiana Utility Regulatory Commission

HISTORY

- Originally established to regulate railroad activity, the Indiana Utility Regulatory Commission (“IURC” or “Commission”) has undergone great change since it was established as the Railroad Commission in the late 1800s.
- By 1913, the agency was given regulatory responsibility over natural gas, water, private sewer, electric and telephone services, and it was re-named the Public Service Commission (PSC).
- In 1987, the General Assembly changed the name of the agency once again and the PSC became the IURC.



Indiana Utility Regulatory Commission

MISSION STATEMENT

The Commission's mission is to assure that utilities and others use adequate planning and resources for the provision of safe and reliable utility services at just and reasonable rates.

Indiana Utility Regulatory Commission

- The IURC is a fact-finding body that hears evidence in cases filed before it and makes decisions based on the evidence presented in those cases.
- An advocate of neither the public nor the utilities, the IURC is required by state statute to make decisions that balance the interests of all parties to ensure the utilities provide safe and reliable service at just and reasonable prices.

What is a Rule?

"Rule" means the whole or any part of an agency statement of **general applicability** that:

(1) has or is designed to have the **effect of law**; and

(2) implements, interprets, or prescribes:

(A) law or policy; or

(B) the organization, procedure, or practice requirements of an agency.

Ind. Code 4-22-2-3(b)

AUTHORITY

“An administrative agency must follow the procedures outlined for it and the law which establishes the agency; an administrative agency can have no more or less power than the statute creating it grants.”

Indiana Air Pollution Control Bd. v. Richmond
457 N.E.2d 204, 206 (Ind. 1983)

IURC Authority

- Broad Authority
 - Ind. Code 8-1-1-3(g):

“The commission shall formulate rules necessary or appropriate to carry out the provisions of this chapter, and shall perform the duties imposed by law upon them.”
- Specific Legislative Authority
 - Mandatory – “shall”
 - Permissive – “may”
 - Combination – may develop standards, but if does so, must be pursuant to I.C. 4-22-2 (i.e., through a rulemaking).

Indiana Voluntary Clean Energy Portfolio Standard Program

- Indiana Code 8-1-37
- Indiana Code 8-1-37-10(a):
- “....the commission shall adopt rules under IC 4-22-2 to establish the Indiana voluntary clean energy portfolio standard program.”

Agencies / Offices Involved

- Legislative Services Agency (“LSA”) / Indiana Register
 - Compliance with the Administrative Rules Drafting Manual
 - Publication
 - Indiana Register (the “Publisher”) –
 - posts/publishes every Wednesday – electronically, on-line only
 - 1-3 week lead time
- State Budget Agency (“SBA”) / Office of Management & Budget (“OMB”)
 - Review of financial impact statements
 - Communicates / interacts with Governor’s Office
 - Approval needed prior to submission to AG
- Indiana Economic Development Corp. (“IEDC”)
 - Reviews Proposed Rule and small business impact statement (“EIS”)
 - Submits comments
- Attorney General’s Office
 - Technical review re: compliance w/ statutes & directives
- Governor’s Office

Statutes & Directives

- Indiana Code
 - 4-3-22
 - 4-22-2 [primary rulemaking statute]
 - 4-22-2.1
 - 4-22-2.5
 - 4-22-7
 - 4-22-8
- Advisory Memoranda from Governor's Office
- Financial Management Circulars
- Administrative Rules Drafting Manual (2008)

IN VCEPS

**Rulemaking Procedures
& Estimated Timeline**

Rulemaking Procedures & Estimated Timeline

DISCLAIMER:

Things change

www.in.gov/iurc

“Statutes & Rules” – “Rulemaking”

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Indiana Utility Regulatory Commission



Welcome to the Indiana Utility Regulatory Commission



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Internal Audit

On October 5, 2010, David Pippen, General Counsel to the Governor, directed the Commission to

Online Services FIRST IN LINE EVERY TIME

- ♦ Electronic Filing System
- ♦ Electronic Document System
- ♦ File a Complaint
- ♦ Forms.IN.gov

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Top FAQs

I Want To.

1. Where do I find information about a case before the Indiana Utility Regulatory Commission?
2. Where do I file a complaint about my utility?
3. How do I contact the Indiana Utility Regulatory Commission?
4. Who do I contact to file a complaint against a utility?
5. What jobs are currently available at the Indiana Utility Regulatory Commission?
6. Who are the Chairman and Commissioners of the Indiana Utility Regulatory Commission?

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Indiana Utility Regulatory Commission

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Indiana Utility Regulatory Commission Small Business Annual Report

2007 - 2008 [pdf](#)

EMERGENCY Rulemakings

Rule	IURC RM#	LSA#	Effective Date	Effective Through	
Temporary Amendment of 30 Day Filing Rule Regarding Publication of Notice for Changes to Telecommunication Access Charges	RM#11-04				pdf
Temporarily amends 170 IAC 5-3-4 to extend the due date to file annual reports in order to match federal due dates.	RM#11-03	LSA #11-276	5/5/11	8/3/11	pdf
Temporarily amends 170 IAC 1-6-5(a)(5) and 170 IAC 1-6-6 to exempt telecommunication carriers filing certain changes to intra-state access tariffs from complying with the notice requirements of 170 IAC 1-6.	RM#11-02	LSA #11-(E)			pdf
Temporarily amends 170 IAC 5-3-4 to extend the due date to file annual reports	RM#11-01	LSA #11-81(E)	2/11/11	5/12/11	pdf
Re: Telecomm Intrastate Access Tariffs	RM#10-03				pdf

PRE-RULEMAKING Workshops

Rule	IURC RM#	Information
Indiana Voluntary Clean Energy Portfolio Standard Program	RM#11-05	Written Comments due 8/15/11 (see Issues-Questions-Concerns document at the following link) View documents Next workshop - 10/14/11, 10:00 a.m. in JCR 222

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More FAQs »



I. Rule Development (Pre-rulemaking)

A. Workshop – July 8, 2011

- Developed “Issues, Questions, Concerns” document.
- Available on IURC website.

B. Stakeholder Meetings with IURC Staff.

C. Written Comments – first round

- Submit by August 15, 2011 – bkroads@urc.in.gov.

D. “Strawman” – Draft Proposed Rule –

- Will be circulated by September 15, 2011.

E. Workshop – REVISED – October 14, 2011, at 10 a.m.

F. Finalize Emergency/Proposed Rule – by December 2011.

G. Fiscal Impact – by December 2011.

II. Emergency Rule

- Approved by IURC in Conference – December 2011.
- Submitted to Legislative Services Agency (LSA).
- Effective date – January 1, 2012.
- Effective until final rule is in effect.

You Want to Do WHAT??

Change can be good, but....

Please give input early in the process.

Emergency Rule = Proposed Rule = Final Rule

III. Statutory Rulemaking Process

- Notice of Intent to Adopt a Rule – January 2012.
- Notice, Proposed Rule, and Fiscal Impact to State Budget Agency – January 2012 – 45 days to review.
- Proposed Rule approved by IURC – February 2012 – minimum 28 days after Notice of Intent.
- Proposed Rule and Notice of Public Hearing Published – February 2012.
- Public Hearing – March 2012 – minimum 21 days after publication.
- Comment Period – 1-2 weeks, including and after Public Hearing – Please be specific – March/April 2012.

Making Changes from Proposed Rule to Final Rule

“....[A]n agency may not adopt a rule that **substantially differs** from the version or versions of the proposed rule or rules published in the Indiana Register....unless it is a **logical outgrowth** of any proposed rule as supported by any **written comments** submitted: (1) during the public comment period; or (2) by the Indiana economic development corporation....”

“Logical” is a relative term

- In prior reviews, in order for changes to be considered a “logical outgrowth,” the comments had to include draft rule language with the suggested changes.
- If the Attorney General’s office makes the determination that the rule is substantially different, then the rule must be republished pursuant to IC 4-22-2-24 and the process starts over from that point.
- When preparing written comments at this stage, please include the exact wording of the proposed changes to the Proposed Rule.


IMPORTANT :

Please give input at Rule Development (Pre-rulemaking) stage, as much more difficult to make changes later and can delay approval of final rule.

III. Statutory Rulemaking Process

- Final Rule approved by IURC – April 2012.
- Rule Packet to Attorney General – 45 days to approve – May 2012.
- Rule Packet to Governor's Office – 15-30 days to approve – June 2012.
- Rule submitted to LSA – June 2012.
- Rule effective 30 days after submission to LSA – July 2012.

Any Questions??

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- Contact: Beth K. Roads, Assistant General Counsel
bkroads@urc.in.gov
 - Status: IURC Website – www.in.gov/iurc
“Statutes & Rules”
“Rulemaking”

Go Forth and Promulgate!

